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HONOURABLE SRI JUSTICE B.PRAKASH RAO
AND
HONOURABLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO:20774 of 2006

DATED: 01-12-2006

Between:

1. T.Kamala and 5 others

..... PETITIONERS

AND

1. The District Educational Officer, Visakhapatnam District and 5 others.

.....RESPONDENTS

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ORDER: (per The Hon'ble Sri Justice Ramesh Ranganathan)

Aggrieved by the order of the Tribunal, in V.M.A.No.300 of 2006 in O.A.No.6948 of 2005 dated 25-09-2006, the present writ petition is filed.

The Tribunal, in its order dated 25-09-2006, held that prima-facie since teachers were still under the control of School

Education/Zilla Parishad/Mandal Parishad and the authorities, who were competent to transfer them before merger took place, still continued to be competent to do so in respect of teachers in Gajuwaka Municipality and Gram Panchayats which were merged with the Municipal Corporation, till such time that specific orders were issued to handover such schools to the Municipal Corporation and the Corporation took over the schools, the teachers remained to be under the control of the authorities under whose control they were before merger. The Tribunal held that it was not the case of the petitioner-applicants that they were paid out of the funds of the Municipal Corporation and as they were being paid from funds of the department of School Education/Zilla Parishad/Mandal Parishad, the master and employer relationship still existed between the Education Department/Zilla Parishad/Mandal Parishad and the teachers working in these institutions, and that the master and employee relationship would come to an end between the petitioner-applicants and the Zilla Parishad/Education Department only when they were taken over by the Municipal Corporation and they were paid out of the funds of Municipal Corporation of Greater Visakhapatnam. The Tribunal held that there were no grounds for continuing the interim orders as the teachers, who had completed eight years of service in a particular station, were liable to be transferred under the statutory rules issued in G.O.Ms.No.102, dated 05-08-2005. Aggrieved thereby the present writ petition.

Miss A.Deepthi, learned counsel for the petitioners, would submit that the Tribunal had held that the petitioners were liable to be transferred under the statutory rules issued in G.O.Ms.No.102 dated 05-08-2005 which rules are no longer in existence having been struck down by the Tribunal. Learned counsel would submit that as a result of Gajuwaka Municipality, and nearby 32 panchayats, having been merged with the Visakhapatnam Municipal Corporation, the Greater Visakhapatnam Municipal Corporation had come into existence, vide G.O.Ms.No.938 dated 21-11-2005, and this aspect has not been considered by the Tribunal.

The fact, however, remains that the petitioners continue to remain employees of the Mandal Parishad/Zilla Parishad concerned till their services are taken over by the Municipal Corporation and as such the respondents herein are entitled to transfer them to such schools which are within their control. Miss.Deepthi, learned counsel for the petitioner, would submit that while the petitioners are not against their being transferred, since there are vacancies in and around the limits of the Greater Visakha Municipal Corporation, the respondents should be directed, in case they intend to transfer the petitioners, to transfer them to such nearby places.

Transfer, as has been repeatedly held, is an incident of service and it is not for this Court to issue a mandamus to the authorities concerned to transfer their employees to a particular

place, and not to another. These are all mattes for the competent authorities to consider, and not for Courts/Tribunals to direct. Any grievance in this regard can only be addressed by the competent authority concerned. Miss.A.Deepthi, learned counsel for the petitioners, would submit that the petitioners shall make a representation within two weeks from today. In case such a representation is filed, the respondents shall consider and pass appropriate orders thereon, within a period of four weeks from the date of receipt of a copy of such representation.

The interim order granted by us earlier stands vacated and the writ petition disposed of. However, in the circumstances, without costs.

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B.PRAKASH RAO, J

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RAMESH RANGANATHAN, J

01st December, 2006

NOTE:

Furnish C.C. within one week.
B/o.
SKM